

(May 28, 1996)

Wage Rates For The Occupation Of Landscape Construction

The State Prevailing Wage Rates for Public Works Contracts included in the contract show a separate listing for Occupation: Landscape Construction, which includes several different Occupation Descriptions such as "Irrigation and Landscape Plumbers", "Irrigation and Landscape Power Equipment Operators", and "Landscaping or Planting Laborers". Federal Wage Rates may include Occupation Descriptions specifically identified with landscaping work in other Occupational Groups such as "Laborers" with the Occupation Description "Landscaping or Planting" or "Power Equipment Operators" with Occupation Description "Mulch Seeding Operator". Any Federal wage rates listed with the Occupation Descriptions that specifically identify landscape work must be considered and compared with the State Rate to determine which rate is higher, and therefore must be paid to workers performing that Occupation Description. If Federal Rates for landscape work are not shown anyplace in the contract, the Contractor, in preparing a bid for this project, shall assume the Federal Rates to be the same as the State Rates for the Occupation of Landscape Construction.

If Federal Rates for landscape Occupation Descriptions are not listed in any Occupational Group in the contract, and at some future date the U.S. Department of Labor (USDOL) determines that the Federal Rates for those Occupation Descriptions should have been rates that are higher than the State Rates, the employees of the Contractor shall be paid no less than the rates so determined by USDOL for those workers, for all the hours worked in these Occupation Descriptions, retroactive to the beginning of the contract, and continuing until the end of the contract. A change order will be prepared with the intent to ensure that the Contractor's employees receive any required additional pay with no fiscal impact to the Contractor.

Accordingly, the Contracting Agency will reimburse the Contractor for the actual costs, subject to the following conditions:

1. The Contractor relied upon the rates included in the contract to prepare their bid and certifies to that fact.
2. The allowable amount of reimbursement will be the difference between the actual rates paid on the certified payrolls or the State Rates listed (whichever of these are the highest) and the Federal Rates later determined to be correct by USDOL plus only appropriate payroll markups the employer must pay, such as, social security and other payments the employer must make to the Federal or State Government,
3. The allowable amount of reimbursement may also include some overhead cost, such as, the cost for making supplemental payrolls and new checks to the employees because of underpayment for previously performed work,
4. Profit will not be an allowable markup, and
5. Firms that anticipated, in the preparation of their bids, paying a rate equal to, or higher than, the correct rate as finally determined by the USDOL will not be eligible for reimbursement.